HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

AND

HON'BLE SRI JUSTICE G. BHAVANI PRASAD

Writ Appeal No.2563 of 2005

Between:

The Singareni Collieries Co. Ltd.,

Represented by its General Manager,

Mandamarri Area, Adilabad District

and two others.

… Appellants

And

G. Srinivas Rao … Respondent

:: ORDER::

Counsel for the Appellants : Ms.Uma Devi,

Counsel for Respondent : Sri P. Sridhar Rao

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March 16, 2006

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Per G.S. Singhvi, C.J.

This appeal is directed against order dated 23-7-2004 passed by the learned Single Judge in Writ Petition No.12383 of 2004 whereby he directed the non-petitioners (appellants herein) to keep the departmental enquiry initiated against the writ petitioner (respondent herein) in abeyance pending disposal of Writ Petition No.15689 of 2001.

The factual matrix of the case is in a narrow compass. The respondent joined the services of Singareni Collieries Company Limited (for short 'the company') as Electrician on
18-10-1988. While he was posted as Electrician under Colliery Manager, Kalyani Khani 5 A, General Manager, Mandamarri Area, vide his order dated 20-7-1998 invited applications from the employees possessing the qualifications of Diploma or Certificate in Computer for adjudging their suitability to work on the computers. The respondent was among 13 employees who applied for being considered for working on computers. He passed the written and practical test. After selection, General Manager, Mandamarri Area issued order dated 26-8-1998 vide which the respondent was deputed to work at the Computer Centre. Although that order

contemplated that the respondent would work for a period of two months only, he was continued at the same place till the issuance of communication dated 12-7-2001 vide which System Analyst, Mandamarri Area directed him to report for duty to Colliery Manager, Kalyani Khani 5A.

It is borne out from the record that the respondent did not carry out the direction and advice contained in communication dated 12-7-2001 and challenged the same in Writ Petition No.15689 of 2001. He also filed an application for interim relief, which was registered as WPMP No.19644 of 2001. By an order dated 31-7-2001, the learned Single Judge directed the respondents to continue the petitioner's service for a period of two weeks. That order remained operative till it was vacated on 17-6-2002. In the meanwhile, the respondent is said to have submitted joining report and claimed that he was entitled to work as Electronic Data Processing Assistant ('EDP Assistant'). This was not accepted by the management of the company. After waiting for some time, the competent authority of the company issued order dated 29-12-2001 for holding departmental enquiry against the respondent on the charge of unauthorised absence. The respondent challenged the action of the appellants to initiate departmental enquiry against him by filing writ petition under Article 226 of the Constitution of India, which was registered as Writ Petition No.12383 of 2004. The learned Single Judge took cognisance of the fact that Writ Petition No.15689 of 2001 filed by the petitioner (respondent herein) questioning the legality of communication dated 12-7-2001 was pending and disposed of Writ Petition No.12383 of 2004 by directing the non-petitioners (appellants herein) to keep the enquiry in abeyance till the disposal of the previous writ petition.

By an order passed today, we have dismissed Writ Petition No.15689 of 2001. We have held that the respondent was never appointed as EDP Assistant; that he does not have any right to hold that post; that he was merely deputed to work at the Computer Centre; that he has no right to continue to work at the Computer Centre and that his repatriation to the parent cadre does not suffer from any legal infirmity.

In view of the above, we find every justification to lift the embargo imposed by the learned Single Judge on the enquiry being held against the respondent.

We are further of the view that in the absence of challenge to the proceedings of enquiry on the ground of lack of jurisdiction, the High Court will be extremely loath to

interfere with the process of enquiry. For this purpose, reference may be made to the judgment of the Supreme Court in **Chief of Army Staff v. Major Dharam Pal Kukrety**.

For the reasons stated above, the appeal is allowed. The order of the learned Single Judge is set aside. As a consequence, Writ Petition No.12383 of 2004 shall stand dismissed.

G.S. SINGHVI, C.J.

G. BHAVANI PRASAD, J.

16th March, 2006

svs/ARS